

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

GEORGE A. TOLIVER,

Plaintiff,

vs.

LVMPD, et al.,

Defendant.

Case No. 2:14-cv-00906-MMD-GWF

**FINDINGS AND  
RECOMMENDATION**

This matter comes before the Court on Plaintiff George A. Toliver's ("Plaintiff") failure to file an Amended Application to Proceed *in Forma Pauperis* or in the alternative to pay the filing fee pursuant to Order (#3).

This matter commenced on June 11, 2014, with the filing of Plaintiff Toliver's complaint and motion/application to proceed *in forma pauperis* (#1). Plaintiff's motion to proceed *in forma pauperis* was denied without prejudice for failing to disclose the amount of income he receives from Social Security. Plaintiff was ordered to file an amended application to proceed *in forma pauperis* or to pay the filing fee within thirty (30) days of the order dated June 17, 2014. Plaintiff was cautioned that failing to do so may result in the dismissal of his action.

Pursuant to Fed. R. Civ. P. 41(b), the Court may dismiss an action with prejudice if the Plaintiff fails to prosecute or to comply with these rules or a court order. Pursuant to Order #3, Plaintiff had until July 17, 2014 to file an amended application to proceed *in forma pauperis* or to pay the filing fee. Notice was mailed to Plaintiff on June 18, 2014. More than thirty days have elapsed since the order was mailed and Plaintiff has not filed an application or paid the filing fee pursuant to the Court's Order (#3). Accordingly,

**RECOMMENDATIONS**

**IT IS HEREBY RECOMMENDED** that Plaintiff's case be **dismissed with prejudice**.

**NOTICE**

Pursuant to Local Rule IB 3-2, any objection to this Finding and Recommendation must be in writing and filed with the Clerk of the Court within fourteen (14) days. The Supreme Court has held that the courts of appeal may determine that an appeal has been waived due to the failure to file objections within the specified time. *Thomas v. Arn*, 474 U.S. 140, 142 (1985). This circuit has also held that (1) failure to file objections within the specified time and (2) failure to properly address and brief the objectionable issues waives the right to appeal the District Court's order and/or appeal factual issues from the order of the District Court. *Martinez v. Ylst*, 951 F.2d 1153, 1157 (9th Cir. 1991); *Britt v. Simi Valley United Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).

DATED this 25th day of July, 2014.



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GEORGE FOLEY, JR.  
United States Magistrate Judge